

CALIFORNIA GAMBLING CONTROL COMMISSION
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COMMISSION MEETING MINUTES

744 P Street
Sacramento, CA 95814
November 20, 2001, 1:30 p.m.

OPEN SESSION

Chairman Hensley called the meeting of November 20, 2001, to order at 1:30 p.m. with Chairman Hensley and Commissioners Sasaki, Smith, and Palmer present.

Staff Present: Gary Qualset, Deputy Director Licensing and Compliance Division; Application Section; Peter Melnicoe, Chief Counsel; and Herb Bolz, Senior Legal Counsel and Regulations Coordinator.

The Pledge of Allegiance was recited.

Commissioner Palmer moved to approve the November 7, 2001, Commission Meeting Minutes. Commissioner Smith seconded the motion, which was adopted unanimously.

DECISION ITEMS

1. Applications for Cardroom Work Permits:
 - a. Empire Sportsmen's Association:
Men, Samothy
 - b. Jok-Erz Wild Casino:
Hongtamaly, Vathsana
Rogen, Lewis
 - c. Poker Flats Casino:
Rosenthal, Stuart
Tam, Tom
 - d. Ven-A-Mexico:
Jimenez-Fletes, Manuel

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of Item 1, sub-items a. – d. Commissioner Palmer moved to approve Item 1, sub-items a. – d. Commissioner Sasaki inquired whether the licenses would be issued with a date of expiration. Deputy Director Qualset stated that currently there existed no provision that specified a time period in which a license would expire, however a bill that provided for licenses to expire in a two year period was recently signed by the Governor and would go into effect on January 1, 2002. Commissioner

Sasaki seconded the motion to approve Item 1, sub-items a. – d., which was unanimously adopted.

2. Applications for Renewal of State Gambling License:

- a. 19th Hole: Stephen E. Scudero, Edward C. Beaudin, and Larry J. Merlin, General Partnership.
- b. Brooks Oceana Cardroom: Barbara Brooks, Sole Proprietor.
- c. Caps Saloon: Jose C. Gonzalez-Curiel, A Corporation.
- d. Central Coast Casino: David & Theresa Sterns, Sole Proprietors.
- e. Ceasar's Club: Jose A. Cahue, Sole Proprietor.
- f. Delta Club Cardroom: Tony & Michael Lee, A General Partnership.
- g. Don Juan Club: Juan Guzman, Sole Proprietor.
- h. Duke's Casino Bar: David Cahnuloy, Sole Proprietor.
- i. Napa Valley Casino: Paul Maguire, Sole Proprietor.
- j. Normandie Club, The: Mary, Gregory, Stephan, Lawrence, and Russell Jr. Miller, A California General Partnership.
- k. Oceans Eleven Casino: North County Gaming Incorporated, A Partnership.
- l. Old Cayucos Tavern: Old Cayucos Tavern Incorporated, A California Corporation.
- m. Poker Junction: Miguel A. Vigil, Sole Proprietor.
- n. Saigon Casino Club: Sy A. Xin, Sole Proprietor.
- o. Ven-A-Mexico: Juan Louis Carrillo, Sole Proprietor.

Item 2 sub-items c., d., f., m., o., were pulled for separate discussion. Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommends approval of Item 2. sub-items a., b., e., g., h., i., j., k., l., n. Commissioner Sasaki moved to approve Item 2. sub-items a., b., e., g., h., i., j., k., l., n. Commissioner Smith seconded the motion, which was unanimously adopted.

Commissioner Palmer requested that a standard be established concerning the criteria provided by the Division of Gambling Control in their recommendations. Deputy Director Qualset indicated that requests have been forwarded to the Division to meet and discuss developing a standard of criteria used by the Division. Commissioner Palmer also requested that the Division provide the Commission with an affirmative statement in it's report of recommendation that applicants for state gambling license were in compliance with local ordinances related to gambling expansion. Deputy Director Qualset indicated that the Division of Gambling Control recommends a temporary approval of licenses for Item 2. c. Deputy Director Qualset further indicated that during the background investigation the Division noted violations of the Gambling Control Act and local ordinances. The Division contacted the owner by letter to address the violations,

in which a response from the owner was received on November 19, 2001. Deputy Director Qualset stated that Commission staff recommends approval of a temporary two-month license through January 31, 2002, to allow additional time for the Division to review issues contained in the owner's response and to complete the investigation. Commissioner Palmer moved to approve a temporary two-month license. Commissioner Sasaki seconded the motion, which was unanimously adopted. Deputy Director Qualset informed the Commission that the Division of Gambling Control had not completed its final recommendation on the application for license renewal for Item 2. d., Central Coast Casino. Deputy Director Qualset indicated that Commission staff recommends approval of a temporary three-month license through February 28, 2002, to allow additional time for the Division to complete a final recommendation. Commissioner Sasaki moved to approve a temporary license for three months. Commissioner Smith seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that the Division of Gambling Control's report on Item 2. f., Delta Club Cardroom, contained items that were a cause for concern. Noted in the Division's report were minor Penal Code violations and a reference to allegations that the casino was involved in skimming and inadequate accounting practices. The Division also addressed issues involving a work permit that was issued on a local basis, which had since been corrected to the satisfaction of both the Division and Commission. Deputy Director Qualset also indicated that the Division of Gambling Control has been in contact with the casino and has received a written statement from the casino owner assuring compliance. Commissioner Sasaki inquired whether the owner's statement of compliance was signed under penalty of perjury, which Deputy Director Qualset was unable to confirm. Deputy Director Qualset indicated that Commission staff recommended a full approval of the license and a follow-up by Commission staff concerning Commissioner Sasaki's requests. Deputy Director Qualset further indicated that Commission staff would continue to monitor the casino and, based on any subsequent findings, would take immediate action if deemed necessary. Commissioner Smith moved to approve the license renewal as stated in Deputy Director Qualset's recommendation. Commissioner Palmer seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that the Division of Gambling Control recommends approval of the license for Item 2. m., Poker Junction. Commissioner Palmer stated that the Divisions report did not contain enough information to determine if the casino was in compliance with the Gambling Control Act regarding the licensing of a new facility under the local ordinance. Deputy Director Qualset stated that Commission staff examined the information provided by the Division and did not determine any violations of the Act or local ordinance and recommends approval of a temporary three-month license and the forwarding of a request to the Division for a determination on the club's compliance with the limitations of gambling expansion under the Act.

Commissioner Palmer asked if Counsel concurred with staffs' recommendation. Chief Counsel Melnicoe responded that local jurisdiction was Kern County and the ordinance provides authorization for 90 tables. Chief Counsel Melnicoe indicated that Counsel recommends a temporary approval to allow staff to ascertain whether the addition of this third club creates an increase of 25% or more of the number of gambling establishments in the County, authorized by amendment to the ordinance subsequent to January 1, 1996. Commissioner Palmer moved to approve a temporary three-month license pending a determination from the Division concerning the local ordinance. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommends approval of Item 2. o., Ven-A-Mexico. Deputy Director Qualset further indicated that the Division report noted the club having been cited for prior violations and had two civil judgments against it totaling \$5,869.00 which were still outstanding. The Division had issued a prior license to the club as a conditional license; however the Division's recommendation for approval did not call for another conditional license. Deputy Director Qualset also noted concerns made by Commissioner Smith regarding the owner operating a bar adjacent to the club, which was being investigated by another state agency because of alleged activities occurring in the bar. Commissioner Smith expressed concerns relevant to the investigation and whether the owner qualified to be licensed in the event findings resulting from the investigation showed the allegation to be factual and the owner implicated. Deputy Director Qualset stated that he believed the Divisions determination for approval was based on the fact that the investigation was still ongoing and there has been no determination. Commissioner Smith stated that since the Commission had no specific information regarding the investigation and the investigation was still ongoing the Commission could not act responsibly with out resolution, and moved to approve a temporary license for three-months pending the findings and determination of the investigation. Commissioner Palmer seconded the motion, which was unanimously adopted.

3. Report on Review by the Office of Administrative Law of the Emergency Regulation Adopted by the Commission on November 7, 2001, Concerning Temporary Work Permits and Changes of Place of Employment; Consideration of any Amendments Responsive to Issues Raised by the Office of Administrative Law.

Senior Legal Counsel and Regulations Coordinator Herb Bolz presented an oral report to the Commission on the review by the Office of Administrative Law of the emergency regulation adopted by the Commission on November 7, 2001, concerning Temporary Work Permits and Changes of Place of Employment. Mr. Bolz reported that the emergency regulations were approved by the Office of Administrative Law and were filed with the Secretary of State on

November 19, 2001. Mr. Bolz further indicated the next step in the process would be to prepare a regular rulemaking to be submitted to the Office of Administrative Law for approval because the emergency regulations elapse 120 days from November 19, 2001. Comments from Chairman Hensley and Commissioner Sasaki were given in recognition of Mr. Bolz and the Legal Division's accomplishment in preparing a rulemaking package that received quick approval from the Office of Administrative Law. Mr. Bolz informed those present that individuals wanting to be included on the Commission's rulemaking mailing list could do so by providing him with contact information upon adjournment of the meeting.

4. Emergency Regulations Concerning Grounds for Denial of Work Permits (Gambling Control Act).

Mr. Bolz recommended approval of: (1) Text; (2) Finding of Emergency; (3) Resolution Concerning Delegation of Authority in Rulemaking of the emergency regulations concerning Grounds for Denial of Work Permits (Gambling Control Act). Mr. Bolz provided the Commission with an oral summary of the emergency regulation text.

The meeting was opened for public comment on the proposed emergency regulation; no comments were presented.

Commissioner Sasaki moved to approve the proposed emergency regulation Text. Commissioner Palmer seconded the motion, which was unanimously adopted. Commissioner Sasaki moved to approve the proposed emergency regulation Finding of Emergency. Commissioner Smith seconded the motion, which was unanimously adopted. Commissioner Sasaki moved to approve the Resolution Concerning Delegation of Authority in Rulemaking, which has been incorporated in these minutes as Attachment A. Commissioner Palmer seconded the motion, which was unanimously adopted.

5. Discussion of Tribal-State Gaming Compact, Gaming Device Licensing and License Fee Payments.

Chairman Hensley announced that, pursuant to the Bagley-Keene Open Meeting Act, the Commission would be conducting a discussion of license fee payments under the Tribal-State Gaming Compact, and gaming device licensing, and that a decision by Commission vote was not required. Chairman Hensley indicated that the purpose of this discussion was to address issues concerning the various methods in which funds are being paid into the Tribal Revenue Trust Fund and to develop, in conjunction with the tribal leaders and tribes, a uniform system for trust fund payments. Commissioner Palmer commended the Tribal Alliance of Sovereign Indian Nations (TASIN) and other tribes who worked jointly with TASIN in preparing their proposals for resolution of various issues and different interpretations under the Compact. Commissioner Smith stressed the

importance of working with tribal leaders to maintain open communication and seek out the different views of the 61 tribes to reach a resolution. **Commissioner Sasaki commented that non-gaming tribes have contacted the Commission, who are the Trustees for the Revenue Sharing Trust Fund, and are concerned with resolving such issues.** Chairman Hensley commented that the Commission hopes to have resolution of the payment methodology by the end of January 2002.

Chairman Hensley announced that discussion concerning gaming device licensing was the intent of the Chair to notice each tribe that the Commission will be requesting information from the tribes on whether they anticipate requesting additional licenses or turning in license within the next 15-month period.

Chairman Hensley opened the meeting for comment. Eileen Brown, Upper Lake Rancheria, asked if there would be another disbursement from the trust fund. Chairman Hensley responded that the Commission expects to approve an additional disbursement of approximately 40% of the fund in December 2001, which would be forwarded to the Legislature for approval, and she could expect payment sometime in February.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR ITEMS

None.

CLOSED SESSION

Chairman Hensley announced that the Commission would be going into closed session. At 2:20 p.m. the Commission adjourned to closed session after Commission Counsel stated that discussions concerning litigation would take place under Government Code Section 11126(c) and 11126(e), and personnel issues under Government Code Section 11126(a)(1).

RECONVENE OPEN SESSION

Chairman Hensley reconvened the open session at 3:27 p.m., indicated there were no announcements and that the next Commission Meeting was being held on December 5, 2001. Commissioner Palmer moved to adjourn the meeting. Commissioner Sasaki seconded the motion, which was adopted unanimously; the meeting was adjourned at 3:30 p.m.